29/01/2025

The Hon Stephen Jones MP
Assistant Treasurer
Minister for Financial Services
Parliament House
CANBERRA ACT 2600

Via email to prebudgetsubmissions@treasury.gov.au

Dear Minister,

AustralianSuper 2025-26 Pre-Budget Submission

AustralianSuper welcomes the opportunity to provide a submission in advance of the 2025-26 Budget.

AustralianSuper is Australia's largest superannuation fund and is run only to benefit members. Over 3.4 million Australians are members of AustralianSuper, and we invest over $355 billion of their retirement savings on their behalf. Our purpose is to help members achieve their best financial position in retirement.

We advocate for an equitable and sustainable superannuation system that delivers for members and all Australians.

Our submission therefore focusses on reforms that will help make super fairer and on the long-term performance and sustainability of the superannuation system. Our submission covers:

- Simplifying Australia's income tax laws for superannuation funds
- Expanding the Low-Income Superannuation Tax Offset
- Improving outcomes for Pacific Australia Labour Mobility scheme workers

Detail on the reforms we recommend are set out in the Attachment to this submission.

We would be pleased to provide additional information or to discuss this submission in further detail. If that would be of assistance, please do not hesitate to contact me or Nick Coates, Head of Government Relations & Public Policy (**ncoates@australiansuper.com**).

Yours sincerely

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Attachment: Key Issues

Simplifying Australia's income tax laws for superannuation funds

The current framework of the Australian taxation system that applies to large APRA-regulated funds is largely unchanged from its inception. This means that as the sector has grown, embarked on consolidation, and become more sophisticated global institutional investors, these funds have faced increasing challenges as they compete with other global institutional investors to seek the best investment opportunities for members.

It is therefore important that the taxation system applying to the investments of superannuation funds is fit for purpose and competitively neutral so that it can support Australian superannuation funds both competing for quality global investment opportunities and then being effective long-term owners of those assets.

The taxation system should be modernised to alleviate uncertainty, put members of superannuation funds on a level playing field relative to corporate taxpayers, and uphold the concessional tax settings designed for complying superannuation funds. Without these changes, at a minimum superannuation funds face higher complexity and compliance costs. It is also likely that the superannuation funds will be competitively disadvantaged when it comes to securing investment opportunities for the benefit of their Australian-based membership. This would have a negative impact on returns and therefore retirement outcomes for members. This part of our submission focusses on three areas:

- Rollover relief for entities that are wholly owned or controlled by large superannuation funds
- Simplification of the rules around foreign income tax offsets and foreign hybrids
- Referencing of superannuation funds in tax treaties to support a level playing field

Rollover relief

Superannuation funds hold assets over a long horizon and are patient providers of long-term capital to Australian and foreign companies and assets. This means that reorganising the legal structures in which funds hold assets may be necessary to ensure they are held in a simple and efficient manner, minimising costs for members, simplifying business operations, reflecting commercial requirements of the fund, and meeting regulatory requirements.

However, there are a range of circumstances where superannuation funds are unable to rationalise or alter holding structures for investments without crystalising Capital Gains Tax (CGT) events and related tax liabilities, even when there is no change to the economic or beneficial ownership of the investment.[1]

Crystallisation of a CGT event often acts as a deterrent to holding assets in the most effective way for members, or where the reorganisation is undertaken in any event due to a commercial need, the costs of that reorganisation are increased.

Corporate taxpayers do not face these issues as they currently have access to the tax consolidation regime, which broadly provides that intra-group transactions (including the transfer of assets) within a tax consolidated group are ignored for income tax purposes, and specific CGT rollovers.

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[1] See the Association of Superannuation Funds' submission to the Board of Taxation's Review of CGT Roll-overs on 5 June 2020, available here: **https://taxboard.gov.au/consultation/review-of-cgt-roll-overs**. The examples in Appendix B to that submission remain pertinent in illustrating where the current arrangements prevent superannuation funds from restructuring asset holdings despite there being no change to the economic ownership of the investments.

A general business restructure roll-over relief for superannuation funds would also assist superannuation fund mergers. While rollover relief is available for the transfer of assets and associated investment structures into the continuing fund, this relief does not extend to the ensuing rationalisation of asset holding structures.

This means that where a fund merges, the continuing fund must retain the asset ownership vehicles of the closing fund, which can be costly because of duplication. Consolidating the assets in the holding structure of the continuing fund, may trigger a CGT event with the tax cost, essentially borne by members, notwithstanding that this may be a more efficient way of holding assets.

Foreign income tax offsets

Foreign investment and the generation of foreign income is expected to grow exponentially for funds in coming years, with many funds forecasting that well over 50 per cent of retirement savings will be invested offshore to ensure appropriate risk diversification and return expectations.

For superannuation funds, the Australian income tax outcomes and obligations for international investments vary depending on the classification of the foreign entity in which the underlying asset is held. The rules in relation to the taxation of foreign income are complex. Navigating and complying with the multiple complex regimes that apply to tax foreign investment leads to, in some cases, unnecessary uncertainty with respect to member outcomes and in most cases costly and complex obligation requirements that are ultimately borne by members.

The review and simplification of the foreign hybrid rules and the rules governing foreign income tax offsets would reduce tax complexity and uncertainty and therefore cost for members.

Tax treaties

Australia's tax treaty network is of increasing importance to funds as they seek out the best investments globally to generate returns for members in Australia.

Because of the unique features of Australian superannuation funds compared to overseas pension funds, Australian superannuation funds either cannot obtain certain benefits under tax treaties or there are significant administrative and compliance processes to establish entitlement to benefits.

In April 2024, we welcomed the opportunity to provide a submission in response to Treasury's Expansion of Australia's Tax Treaty Network consultation. We strongly support Treasury's commitment to expanding Australia's tax treaty network and re-iterate the recommendations made in our submission, available here: **https://treasury.gov.au/sites/default/files/2024-07/c2024-506070-au-super.pdf**.

Recommendations:

The Government should review income tax laws as they apply to the investments of superannuation funds to ensure that they are fit for purpose, provide greater certainty, and place these investments on a level playing field with corporate taxpayers. In particular, the Government should:

- Enact a general business restructure roll-over relief so that it is available to entities that are wholly owned or controlled by large superannuation funds.
- Review and simplify the rules governing foreign income tax offsets and foreign hybrids, to reduce tax uncertainty and compliance costs.
- Continue to ensure that Australian superannuation funds are referenced in new or updated tax treaties, and that provisions support a level playing field for Australian superannuation funds.

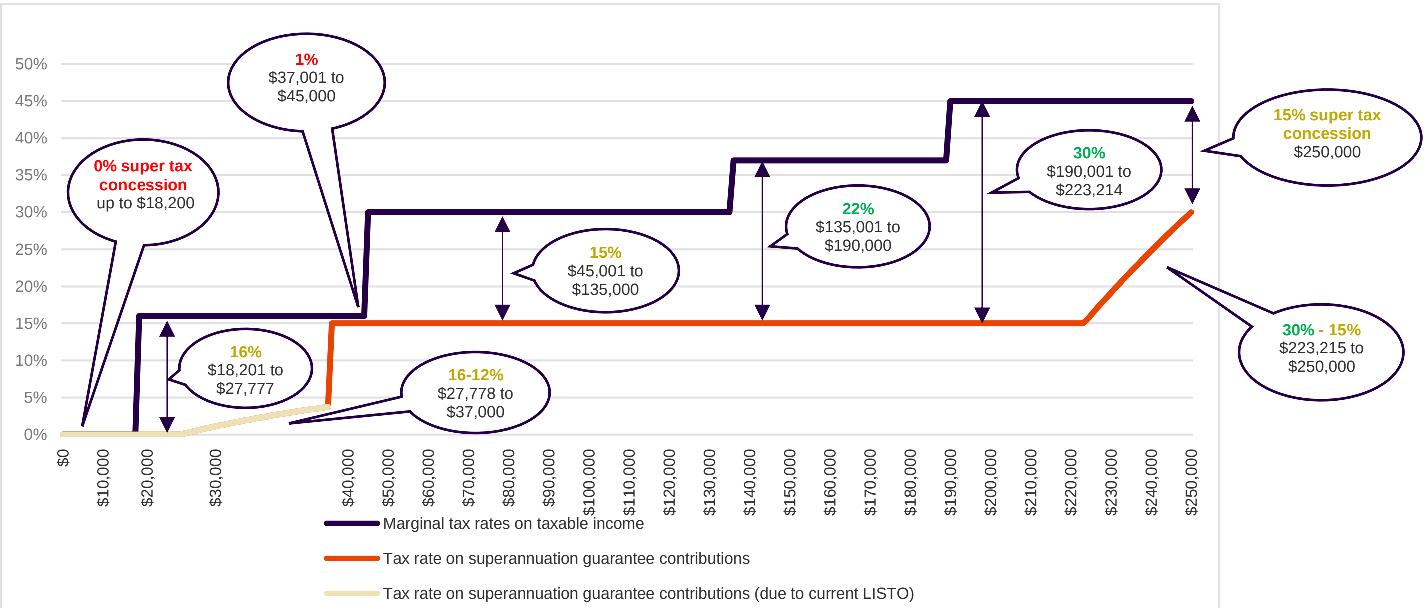
Expand the Low-Income Superannuation Tax Offset

Most Australians are taxed at a lower rate on their super than on their salary. This is because super is a long-term proposition: super contributions represent delayed spending, and the benefits of this lower tax rate are compounded for a lifetime. These tax concessions reward people for saving for retirement and make a big difference to people's quality of life in retirement. Tax concessions for super and retirement savings are common across the OECD.

However, in Australia, many low-income earners miss out on a tax concession on their super contributions (see **Figure 1**). Many more receive a much lower tax concession than higher income earners:

- A person earning $40,000 receives a tax concession of just 1 per cent on their super contributions (16 per cent marginal tax rate compared to a 15 per cent tax rate on super contributions).
- A person earning $190,000 receives a tax concession of 30 per cent on their super contributions (45 per cent marginal tax rate compared to a 15 per cent tax rate on super contributions).

Figure 1: Marginal tax rates on taxable income, tax rates on super guarantee contributions and tax discount.



Marginal tax rates exclude Medicare levy. Tax rates on employer super guarantee contributions are based on the percentage of tax payable on the amount of super received under the super guarantee for the level of taxable income and assume that the person's taxable income is the same as their ordinary time earnings on which the super guarantee is calculated. Based on super guarantee of 12% (from 1 July 2025).

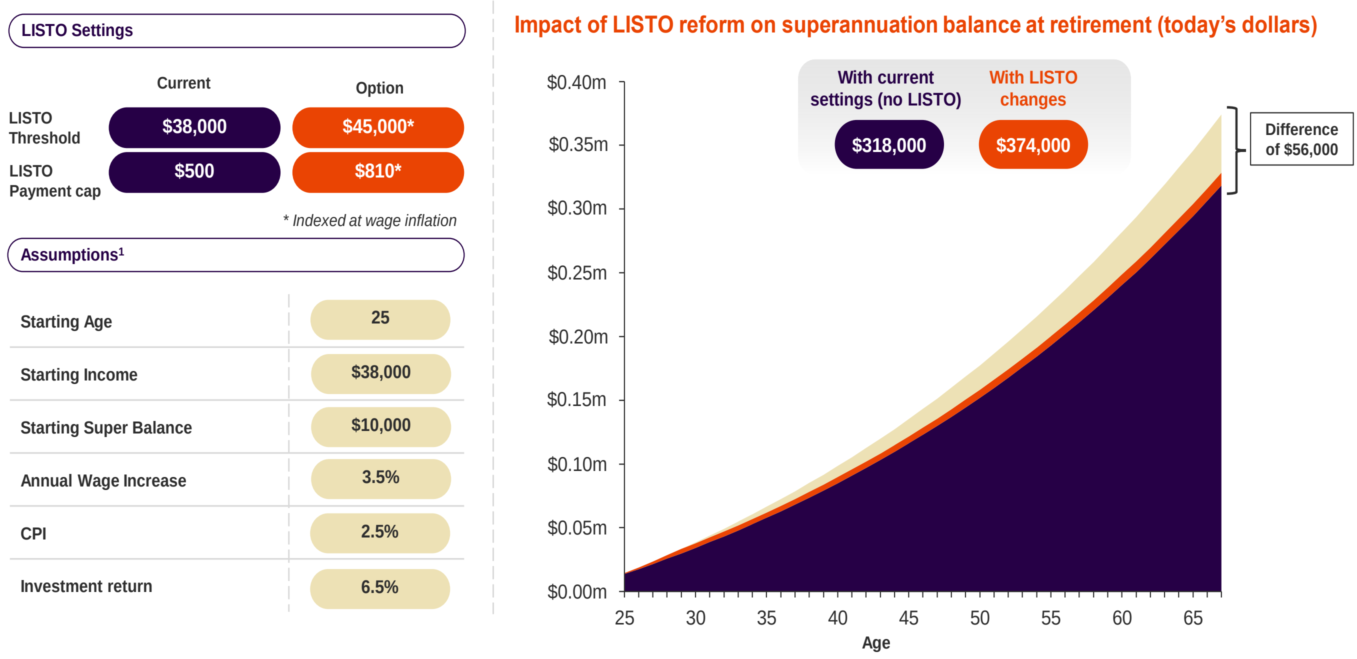
The Low-Income Superannuation Tax Offset (LISTO) compensates low-income individuals for the tax their super fund pays on concessional contributions. LISTO addresses the unfairness of taxing compulsory super contributions at a higher rate than the individual's regular income tax rate.

However, LISTO is no longer achieving its objective. This is because it has not been increased since its introduction in 2012, despite wage inflation, changes in tax brackets and an increase in the superannuation guarantee. LISTO remains:

- Capped at $500 a year (i.e. no more than $500 in super contributions tax can be refunded in any one year). This no longer fully offsets the tax on super contributions for many low-income earners.[2]
- Limited to those earning $37,000 or less per year - the LISTO threshold. This is even though, with wage inflation, a $37,000 salary in 2012 is now equivalent to $49,448[3], and the top of the second tax bracket has changed from $37,000 to $45,000.

This means that low-income earners will retire with less super than they should. The failure of LISTO to keep up with tax brackets and wage inflation could cost a 25-year-old worker on $38,000 a year **$56,000** in retirement in today's dollars (see **Figure 2**).

Figure 2: Impact of indexation on a 25-year-old earning $38,000



Source: Right Lane Consulting. (2024).; AustralianSuper. (2024).

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[2] $500 was sufficient to offset the tax on super contributions at 9% (the SG rate in 2012). However, since then the SG has increased and from 1 July 2025 it will be 12%. Someone on a salary of $35,000 who receives the 12% super guarantee will receive $4200 in super contributions. They will pay $630 in tax on this (the 15% super contributions tax), but due to the LISTO cap, they will only receive a $500 refund.
[3] Australian Bureau of Statistics, Wage Price Index, Australia, September 2012 to June 2024.

Recommendations: LISTO should be expanded to ensure that all low-income earners get a fair tax concession on their super and can benefit from an improved standard of living in retirement. Specifically:

- Reform 1: Increase the amount of LISTO available to reflect increases in the Superannuation Guarantee (SG) amount (link LISTO amount to the SG amount).
- Reform 2: Allow access to LISTO for those earning between $37,000 and $45,000 a year (linking LISTO eligibility to the top of the second tax bracket).
- Reform 3: Double LISTO for those on the lowest incomes (i.e. below the tax-free threshold) to ensure that they get a tax concession on their super contributions like everyone else.

Our recommendations to expand LISTO will help to:

- Close the gender super gap, as 57-58 per cent of the beneficiaries will be low-income women.
- Boost the superannuation balances of young workers.
- Improve superannuation for Aboriginal and Torres Strait Islander people, given that a higher proportion are employed in lower paid occupations.[4]

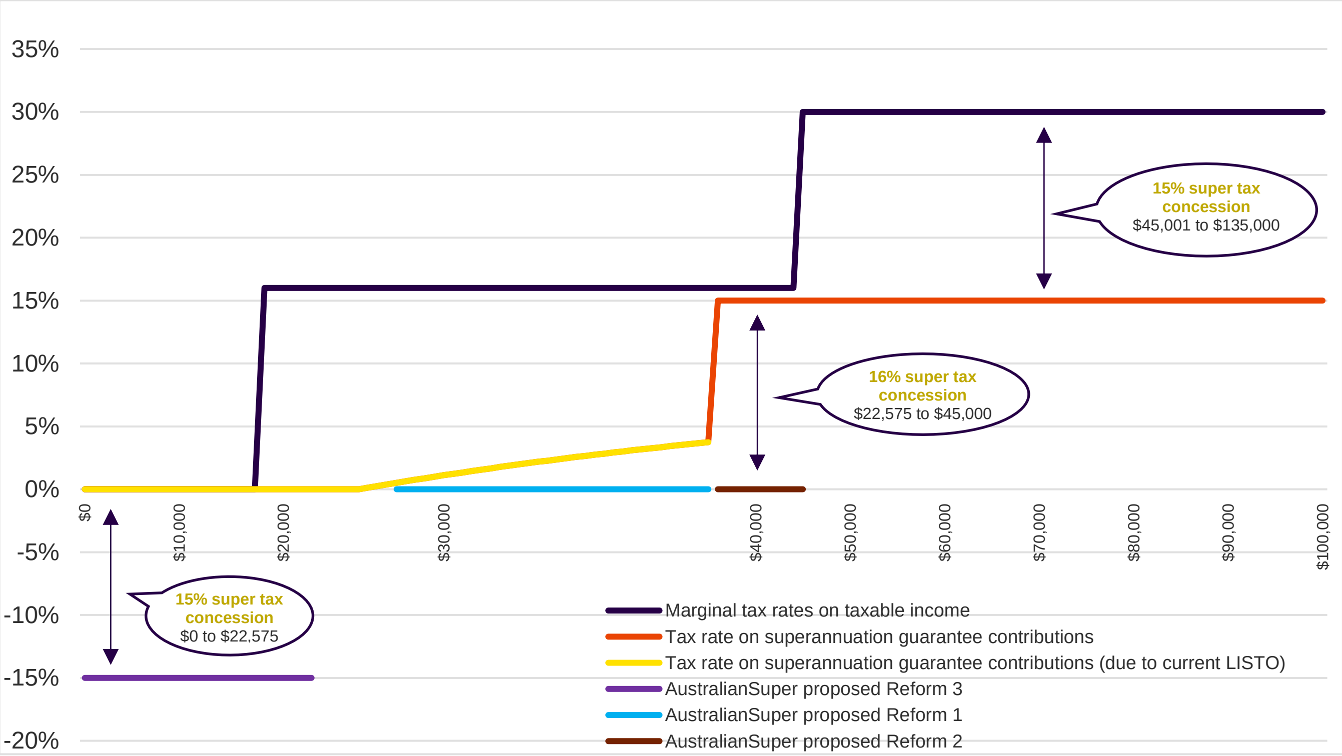
[4] Association of Superannuation Funds of Australia, **Research note: Superannuation balances of First Nations individuals**, July 2024.

The impact of these reforms is set out in the table below. Their effect on tax concessions for low-income earners is in **Figure 3** below.

Reform proposal	Explanation	Cost to government and benefit to members[5] (AustralianSuper modelling)[6]
Reform 1 Increase the cap to fully offset the SG contribution.	This would mean that LISTO fully offsets the super contributions tax on the SG of someone with an income that qualifies for LISTO. For example, when the SG reaches 12%, this would mean increasing the cap on LISTO from the current $500 to $670 (i.e. $37,000 x 12% x 15% = $666). The 2025-26 Financial Year is an appropriate time for this to commence, as the year when the SG completes the current glidepath to 12%.	Cost of policy change**: $60 million per year.** Number of beneficiaries from policy change: **740,000 Australians**. This includes: • **430,000 women** (58% of beneficiaries) and • **300,000 people under 30** (40% of beneficiaries).
Reform 2 Increase the income threshold to the top of the second tax bracket (currently $45,000) and further increase the cap.	At $45,000, a LISTO cap of $810 would fully offset the super contributions tax of someone earning up to $45,000 when SG reaches 12% (i.e. $45,000 x 12% x 15% = $810). Over half a million women earn between $37,000 and $45,000.	Cost of policy change: **$640 million per year**. Number of beneficiaries from policy change: **2.20 million Australians**. This includes: • **1.3 million women** (57% of beneficiaries) and • **860,000 people under 30** (38% of beneficiaries).
Reform 3 Double LISTO for workers earning below the effective tax-free threshold (currently $22,575 and below)	Under the current LISTO these income earners receive no tax concession on their super contributions unlike every other wage earner (paying the same rate on both: 0% tax on their salary, and 0% on super contributions). They are paying a tax penalty on their super once the 15% tax on super fund *earnings* is taken into account. This would result in these lowest income earners receiving an additional 15% on top of their super contributions.	Cost of policy change: **$240 million per year.** Number of beneficiaries from policy change: **1.20 million Australians**. This includes: • **690,000 women** (57% of beneficiaries) and • **610,000 people under 30** (50% of beneficiaries).

[5] Costs and beneficiaries of policy change are based on the additional amount of LISTO to which superannuation members would be entitled for FY25/26 compared to the current LISTO settings. This year is chosen as it is the year in which the super guarantee reaches 12%.
[6] The model is based on a 2% sample unit record file of individual income tax returns developed by the Australian Tax Office (ATO) from the 2021–22 tax year.

Figure 3: Marginal tax rates on taxable income, tax rates on super contributions and tax discount with proposed reforms.



Note: Marginal tax rates exclude Medicare levy. Tax rates on employer super guarantee contributions are based on the percentage of tax payable on the amount of super received under the super guarantee and assume that the person's taxable income is the same as their ordinary time earnings on which the super guarantee is calculated. Based on super guarantee of 12% (from 1 July 2025). Although the 0% tax rate applies to taxable incomes up to $18,200 (the tax-free threshold), $22,575 is chosen for Reform 1, because that is the level of the effective tax free threshold incorporating tax rates and the Low Income Tax Offset.

Improving outcomes for Pacific Australia Labour Mobility scheme workers

The Pacific Australia Labour Mobility (PALM) scheme is a temporary migration program that allows Australian businesses to hire workers from nine Pacific Island countries and Timor-Leste.

The PALM scheme enables these workers to take up employment in Australia, develop their skills, and remit income to support their families and communities. The earnings contribute to improving development and quality of life in lower-income regions. For Australian businesses, the scheme plays an essential role in ensuring an adequate supply of workers, particularly in the agriculture, meat processing, and care industries.

PALM scheme workers can struggle to access their superannuation benefits, facing an unfamiliar and complex system. Applying for Departing Australia Superannuation Payments (DASP) can be difficult. Additionally, these workers pay higher taxes on their super than Australian workers.

Tax on superannuation payments

PALM scheme workers will incur a tax of almost 45 per cent on their superannuation. This includes a 15 per cent tax on their super contributions and a 35 per cent Departing Australia Superannuation Tax (DAST) upon withdrawal.

The rationale for the DAST is to recoup superannuation tax concessions from temporary residents departing Australia, given that superannuation is intended to support retirement.

However, this rationale does not reasonably apply to PALM scheme workers, as superannuation is not concessional for them, even before the DAST is applied. PALM scheme workers typically have low incomes:

- PALM scheme workers on short-term visas are subject to a flat 15 per cent tax on their wages, in addition to 15 per cent tax on their superannuation contributions, and any superannuation earnings are also taxed at 15 per cent. Consequently, they do not receive any tax concessions on their superannuation.
- PALM scheme workers on longer-term visas are taxed at marginal rates. Nevertheless, it is unlikely that they earn sufficient taxable income for the 15 per cent tax on their super to constitute a concession.

Claims process

The process for applying for DASP can be challenging for PALM scheme workers to navigate. A recent paper from the Australian Workers' Union and the Approved Employers of Australia sets out the difficulties that PALM scheme workers face in obtaining their superannuation.[7]

Applications for DASP are either made through the ATO's portal to a superannuation fund, via a paper-based form to a superannuation fund, or directly to the ATO.[8]

Workers may only apply for DASP once they have left Australia and may need to provide certified identity documents. These requirements create challenges for these workers.

Portability

There is no superannuation agreement allowing portability from Australian superannuation funds to superannuation or provident funds in Pacific Island countries. A portability agreement would give PALM scheme workers the ability to transfer super to their home country to support their retirement and is consistent with practices with New Zealand and the Cook Islands.[9]

To improve outcomes for PALM scheme workers we make the following recommendations:

Recommendations:

- Remove the DAST for PALM scheme workers.
- Streamline the DASP claims process to make it easier for workers to access their super.
- Allow portability between Australian superannuation funds and superannuation and provident funds in home countries of PALM scheme workers.

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[7] **https://awu.net.au/wp-content/uploads/2024/11/241102-Super-Powered-paper.pdf**
[8] DASP is required to be transferred to the ATO as unclaimed money if it is more than 6 months since the member left Australia and their visa has ceased to be in effect.
[9] Members are currently allowed to transfer their superannuation from an Australian superannuation fund to a KiwiSaver account when they move to New Zealand permanently. These portability arrangements allow members who move to New Zealand to continue growing their retirement savings. Recently, the Government has announced an extension of this arrangement to the Cook Islands National Superannuation Fund.